Serial No. 09/393,942

#### CERTIFICATE OF FASCIMILE TRANSMISSION TO THE UNITED STATES PATENT AND TRADEMARK OFFICE CENTRAL FAX CENTER

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NOV 14 2005

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office at the telephone number set forth above on November 14, 2005.

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Atty. Docket

THOMAS JAMES DUBIL ET ALL

US000183

Serial No. 09/686,572

Group Art Unit: 2179

Filed: OCTOBER 10, 2000

Examiner: NHON D. NGUYEN

Title: CONTROL CODES FOR PROGRAMMABLE REMOTE SUPPLED IN XML FORMAT

Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

#### PETITION UNDER 37 CFR 1.181(a) TO WITHDRAW HOLDING OF ABANDONMENT BASED ON FAILURE TO RECEIVE OFFICE COMMUNICATION

Sir:

This Petition is submitted in response to a Notice of Abandonment that was mailed on October 19, 2005. A copy of the Notice is attached as Exhibit A. According to the Notice, U.S. Patent Application No. 09/686,572 was abandoned for failure to timely file a proper reply to the Office letter mailed on June 16, 2004. At this time, I personally had not received an Office Action in this Application, nor did I have any personal knowledge to the effect that any persons in the office received the Office Action.

In response to this Notice, I searched the contents of the file jacket for this application.

No copy or reference to the Office Action was found (a copy of the front page of the file jacket is attached as Exhibit B).

I also performed a search on our computerized docketing system to determine if any such Office letter or required response was noted (copy of computerized docket record for docket number US000183 is attached as Exhibit C). I discovered no notation indicating that such Office Action was noted as received or due for this Application.

A diligent and sincere effort was made to clearly set out the facts and circumstances surrounding this matter. It is firmly believed that a sufficient showing is made for an immediate allowance of this Petition. It is respectfully requested that an Office Action be remailed and a period for response restarted.

It is believed that no fee is due with this Petition. The Commissioner, however, is authorized to charge any fees, if applicable, associated with this application to Deposit Account No. 14-1270.

Respectfully submitted

Larry Liberchok, Reg. No. 40,352

Senior Corporate Counsel

914-333-9602

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# **EXHIBIT A**



### UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspo.gov

PPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION	
09/686,572	10/10/2000	Thomas James Dubil	US000183	4775	
·	390 10/19/2005		EXAMINER		
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BRIARCLIFF	MANOR, NY 10510		ART UNIT	PAPER NUMBER	
	•		2179	•	
			DATE MAILED: 10/19/2005	<b>;</b>	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Notice of Abandonment	09/686,572	DUBIL ET AL.
Notice of Abandonment	Examiner	Art Unit
	Nhon (Gary) D. Nguyen	2179
- The MAILING DATE of this communication app	sears on the cover sheet with the o	
This application is abandoned in view of:	end of the open where will the C	urrespondence address
Applicant's failure to timely file a proper reply to the Office     (a) A reply was received on (with a Certificate of N period for reply (including a total extension of time of	failing or Transmission dated month(s)) which expired on	
(b) ☐ A proposed reply was received on but it does it	not constitute a proper reply under 37	CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection application in condition for allowance; (2) a timely filed Continued Examination (RCE) in compliance with 37 C	n consists only of: (1) a timely filed an Notice of Appeal (with appeal fee): o	andment which places the
(c) ☐ A reply was received on but it does not constitutional rejection. See 37 CFR 1.85(a) and 1.111. (See €	te a proper reply, or a bona fide atter explanation in box 7 below).	mpt at a proper reply, to the non-
(d) No reply has been received.	,,	
2. Applicant's failure to timely pay the required issue fee and from the mailing date of the Notice of Allowance (PTOL-85	publication fee, if applicable, within t	he statutory period of three months
(a) The issue fee and publication fee, if applicable, was ), which is after the expiration of the statutory pe Allowance (PTOL-85).	received on (with a Certification for payment of the issue fee (and	te of Mailing or Transmission dated d publication fee) set in the Notice of
(b) The submitted fee of \$ is insufficient. A balance	of \$ is due.	•
The issue fee required by 37 CFR 1.18 is \$ T		FR 1 18/d) ie s
(c) The issue fee and publication fee, if applicable, has no	t been received.	
<ol> <li>Applicant's failure to timely file corrected drawings as requi Allowability (PTO-37).</li> </ol>		
(a) Proposed corrected drawings were received on after the expiration of the period for reply.	(with a Certificate of Mailing or Trans	mission dated), which is
(b) No corrected drawings have been received.		
<ol> <li>The letter of express abandonment which is signed by the the applicants.</li> </ol>	attorney or agent of record, the assig	nee of the entire interest, or all of
<ol> <li>The letter of express abandonment which is signed by an a 1.34(a)) upon the filing of a continuing application.</li> </ol>	attorney or agent (acting in a represe	ntative capacity under 37 CFR
<ol> <li>The decision by the Board of Patent Appeals and Interferer of the decision has expired and there are no allowed claims</li> </ol>	nce rendered on and because s.	the period for seeking court review
7. 🔀 The reason(s) below:		1
Applicants has confirmed that they have not filed a re	sponse to the Office Action maile	d on June 16, 2004.
	BA HU'	XAMINER
etitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw ninimize any negative effects on patent term.  Petent and Trademark Office	the holdi <del>ng of abangonment under</del> 37 CF	R 1.181, should be promptly filed to
OL-1432 (Rev. 04-01)		

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# EXHIBIT B

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# EXHIBIT C

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